

NOTES | May 17, 2012

Mono Basin Core Working Group Meeting in Bishop

Prepared by Center for Collaborative Policy

Core Group approved May 30, 2012

Meeting Overview

The Core Working Group (Core Group) held a conference call with staff from the State Water Resources Control Board (SWRCB) to clarify outstanding questions regarding LADWP's obligations under Order 98-05. After the call, the Core Group met in closed session to confirm goals for June 1 and discuss options for moving forward and reaching agreement.

State Water Resources Control Board Update

In an effort to gain clarity on LADWP's obligations under Order 98-05, the Core Working Group (Core Group) posed three questions to State Water Resources Control Board (SWRCB) staff:

If LADWP and the Core Working Group propose to modify Grant and implement the Synthesis Report flows, would LADWP be meeting its obligation for responding to Order 98-05?

Yes. According to the SWRCB, modification to Grant and implementation of Synthesis Report flows would enable LADWP to meet its obligation to respond to Order 98-05.

Does Order 98-05 mandate the Synthesis Report flows?

No, but SWRCB staff deem this irrelevant to reaching agreement because the Core Group is trying to reach consensus recommendations to resolve feasibility associated Synthesis Report flows. Order 98-05 does not require the implementation of the flows recommended in the Synthesis Report; rather it mandates the Stream Scientists to evaluate and make recommendations on flows and on the need for a Grant Lake outlet. From the SWRCB staff's perspective, the next step is for LADWP to determine the feasibility of these recommendations. Those recommendations that LADWP considers not feasible will be subject to dispute resolution process and ultimately decided by the SWRCB.

SWRCB staff distinguish 'feasibility' (i.e. real-world factors such as cost and available water) from 'correctness' of the recommended flows and request that LADWP respond only to feasibility at this time. To SWRCB staff, the question of whether Synthesis Report recommendations exceed the scope of their original charge in Order 98-05 is irrelevant within the context of a potential agreement on feasibility. The 'correctness' and 98-05 scope/charge of the Synthesis Report recommendations only becomes pertinent if Core parties fail to reach agreement and the matter enters into the dispute resolution process. Under such a scenario, the SWRCB would consider all relevant factors (including feasibility and 98-05 scope/charge) to determine the best solution. Yet within the context of a

facilitated process, where parties are still exploring the potential for agreement, SWRCB staff consider correctness irrelevant and thereby request that LADWP respond only to the feasibility of Synthesis Report recommendations.

Does Order 98-05 mandate modifying the Grant Lake outlet?

No, but SWRCB staff deem this irrelevant to reaching agreement. See previous paragraph for an explanation of the SWRCB's request for LADWP to respond to the feasibility of the Synthesis Report recommendations, regardless of whether they exceed the scope of Order 98-05. According to SWRCB staff, the scope of the charge of modifying Grant Lake outlet is not limited by any direction that may appear elsewhere in Order 98-05.

Final State Water Board Comments

In general, SWRCB staff urge the Core Group to focus on the feasibility of implementing the Synthesis Report in a way that works for all parties, as an agreement will provide the most certainty for all. If the Core Group is able to reach agreement, SWRCB staff will strongly advocate for a streamlined and expedited implementation procedure. This includes consideration of relevant extraneous issues as well as whether a Change Petition is necessary.

Attendance

IN PERSON

Gene Coufal, Los Angeles Department of Water and Power (LADWP)
Lisa Cutting, Mono Lake Committee (MLC)
Mark Drew, California Trout
Ali Karimi, LADWP
Geoff McQuilkin, MLC
Bruk Moges, LADWP
Steve Parmenter, Department of Fish & Game (DFG)
Paul Pau, LADWP
James Yannotta, LADWP

Attorneys

Richard Roos-Collins (California Trout)
David Edwards (LADWP)

BY PHONE

Greg Reis, MLC
Ross Taylor, Ross Taylor & Associates

Tobi Tyler, Lahontan Regional Water Quality Control Board, afternoon only
Peter Vorster, MLC

Attorneys

Bruce Dodge (MLC)

State Water Resources Control Board Staff

Greg Brown, Environmental Scientist

Phil Crader, Manager of Permitting and Licensing

Kathy Mrowka, Senior Water Resource Control Engineer

David Rose, Counsel

STAFF

Facilitator Gina Bartlett, Center for Collaborative Policy (CCP)

Note-taker Hannah Murray (CCP)